

REMARKS

Applicant has carefully reviewed this Application in light of the Election/Restriction Requirement mailed September 26, 2003 (Paper No. 5). Claims 1-23 are pending in this Application. Claims 1-23 are subject to the election or restriction requirement. Applicant has amended Claim 18 to clarify various features of Applicant's invention.

The Examiner required an election of the claimed invention between the following groups:

Group I. Claims 1-16, drawn to an exposure method, classified in class 430, subclass 22.

Group II. Claims 17-23, drawn to a mask, classified in class 430, subclass 5.

Pursuant to the requirement imposed by 37 C.F.R. § 1.143, Applicant provisionally elects Group I, which includes Claims 1-16.

Traverse to Group Election Requirement

Applicant respectfully traverses the election requirement. The Examiner indicates that "Inventions of Group II and I are related as product and process of use." (Paper No. 5, Page 2). Applicant asserts that the methods of Claims 1 and 10 are processes of making the product of Claim 21, rather than a process and apparatus for its practice as stated by the Examiner. A process of making a product may be distinct from the product made by the process if it can be shown that: "(A) that the process *as claimed* is not an obvious process of making the product and the process *as claimed* can be used to make other and different products; or (B) that the product *as claimed* can be made by another and materially different process." (MPEP § 806.05(f), italics in original, underline added). Claims 1 and 10 recite a method comprising the step of moving a selected feature located in a cell between a first boundary and a second boundary from a first pattern file to a second pattern file. Claim 17 recites logic encoded in media operable to perform the step of moving a selected feature located in a cell between a first boundary and a second boundary from a first pattern file to a second pattern file. Claim 21 recites a photomask manufactured by moving a selected feature located in a cell between a first boundary and a second boundary from a first pattern file to a

second pattern file. Applicant, therefore, asserts that a restriction between Groups I and II is inappropriate and requests that the restriction requirement between these two groups be withdrawn.

Traverse to Claims included in Groups I and II

The Examiner indicates that Claims 17-23 are “drawn to a mask” and “are product-by-process claims.” (Paper No. 5, Page 2). Applicant agrees that Claims 21-23 are product-by-process claims. Applicant, however, traverses these statements with respect to Claims 17-20 and respectfully submits that Claim 17 is drawn to logic encoded for media that performs the step of moving a selected feature located in a cell between a first boundary and a second boundary from a first pattern file to a second pattern file. Applicant, therefore, believes that Claims 17-20 are also drawn to an exposure method and should be include in Group I.

Should the Examiner believe that a restriction is appropriate, Applicant elects the modified Group I (Claims 1-20) for prosecution in the present application, withdraws Group II (Claims 21-23) from consideration and cancels such claims without prejudice or disclaimer. Claims 21-23 are subject to filing of a divisional application thereon.

Otherwise, Applicant provisionally elects Group I (Claims 1-16) for prosecution in the present application, withdraws Group II (Claims 17-23) and cancels such claims without prejudice or disclaimer. Such claims are subject to the filing of a divisional application thereon.

CONCLUSION

Applicant has now made an earnest effort to place this case in condition for examination and allowance. Applicant respectfully requests reconsideration of the application and allowance of Claims 1-23.

Applicant believes no further fee is due, however, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 50-2148 of Baker Botts L.L.P. in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2581.

Respectfully submitted,

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